

FARMINGTON PLANNING BOARD

**153 Farmington Falls Road
February 11, 2013 - 6:00 P.M.
Minutes**

Planning Board members present were Clayton King, Lloyd Smith, Craig Jordan, and Tom Eastler. Alternate member, Gloria McGraw, was also present.

Donna Tracy, Tim Hardy, and Bill Marceau were unable to attend.

Others present were Town Manager, Richard Davis; Chief of Police, Jack Peck; Code Enforcement Officer, Steve Kaiser; Code Enforcement Assistant, Jane Ford; Tom Holt, Jane Woodman, and S. Clyde Ross of the Farmington Village Corporation; Paul E. Cote, P.E.; Assistant District Attorneys, James Andrews and Andy Robinson; surveyor, Erik Lochmann; and applicants, Cory Boyker, Randy Cousineau; and Brian Bourgault.

1. Designate alternate members, if needed

Mr. King designated Mrs. McGraw as a voting member for this meeting.

2. Review minutes of January 14, 2013

Mr. Smith called attention to the fact that the minutes were entitled "agenda".

Mrs. Ford said she would make the correction.

Mr. Smith made a motion to approve the minutes of January 14, 2013 with the above noted correction.

Mrs. McGraw seconded the motion.

VOTE: 4 – Affirmative 3 – Absent (Dr. Eastler was not present for this vote)
Motion carried.

Mr. King suggested that the Board should re-arrange the agenda items as follows: Item #5 would be reviewed first, then the Board would review item #6, item #3, followed by item #4. All agreed.

**5. Brian and Ellen Bourgault – Non-Conformance Expansion of 24 SF
Non-Conformance Application #13-NC-01
109 Starling Street
Map U29 – Lot 022**

Mr. Bourgault was not present at the start of the review of this application.

Mr. King asked Mr. Kaiser to give a description of the proposal and Mr. Kaiser said that Mr. Bourgault filed a Non-Conformance Expansion application regarding a proposed 3' x 8' (24 SF)

bedroom expansion into the side setback. He said this is within the 30% non-conforming expansion limit allowed with Planning Board approval, as there was 109 SF existing non-conformance which allowed a 32.7 SF maximum expansion.

Mr. King asked if there were any abutters present and there were none.

Mr. King asked, since Mr. Bourgault was not present, how would the Board like to proceed.

Mr. Kaiser said that Mr. Bourgault was aware he needed to be present.

Mr. King asked when he planned on doing the addition, if approved.

Mr. Kaiser said the he wouldn't begin any construction until the weather turns warm.

Mr. Jordan said that though this is a simple project we have always requested that someone be present.

Mr. Smith suggested that the Board table this agenda item until the end of the meeting in case Mr. Bourgault arrives.

Mr. Bourgault arrived just then and the Board continued the discussion.

Mr. Bourgault said that he was going to rebuild but decided to just add on to his existing trailer. He said he is adding a new living room and garage which meet the setbacks, but needs approval to make the bedroom larger. He added that the garage will be for his own use.

Mrs. McGraw asked Mr. Kaiser how close the trailer is to the property line vs. the standard 10 foot side setback.

Mr. Kaiser said the 24 SF bedroom addition will be about seven feet from the line.

Mrs. McGraw asked if Mr. Bourgault has had any problems with his neighbors.

Mr. Bourgault said no, and the trailer was installed in 1987 before setbacks were imposed.

Mr. Jordan made a motion to approve the application as submitted.

Mr. Smith seconded the motion.

VOTE: 4 – Affirmative 3 – Absent (Dr. Eastler was not present for this vote)
Motion carried.

**6. Granite Heights Subdivision Modification
Subdivision Modification #13-SD-01-M
Map R20 – Lots 29, 30, 31
Division of Lot 30 to add 20,000 SF to
Lots 29 and 31 (Lot 30 to be eliminated)**

Dr. Eastler arrived.

Randy Cousineau and surveyor Erik Lochmann were present to represent this subdivision modification.

Mr. Cousineau gave a description regarding this modification and said that in the summer of 2012 Mary Batt, owner of Lot 31, built a house. He said when Acme Engineering surveyed the property, it was discovered that one corner of the building was over the property line by a few feet. Mr. Cousineau said he has been working with Ms. Batt to rectify the situation and they have decided to split the adjacent lot (lot 30 situated between lot 20 and lot 31)) in half, with the north half being added to Ms. Batt's lot and the south half being added to lot 29, which he owns. He added that lot 30 will no longer exist and this change needs the Board's approval.

Dr. Eastler made a motion to approve the application as submitted.

Mr. Jordan seconded the motion.

VOTE: 5 – Affirmative 3 – Absent
Motion carried.

Mr. Ross asked the Board if they would review the revised Wellhead Protection Ordinance next.

Mr. King agreed and thanked Mr. Cote for coming up from Portland for this meeting.

3. Farmington Water Department/Farmington Village Corporation Revised Wellhead Protection Ordinance - Continuation

Mr. King questioned, on page 6, section b *...and that the foundation does not cause the structure to be elevated by more than three (3) additional feet...* and he asked where the three feet originated.

Mr. Kaiser said, to be consistent, he added that to the draft to be consistent with the Zoning Ordinance.

Mr. Jordan gave an example, in areas around the lake (Clearwater), this prevents you from turning it into living space.

It was noted that on page 9 (3) Change of Use, there was a typo and "changes" should read "changed".

Mr. Kaiser noted the slight layout change he'll correct on the Land Use Table on page 18.

Mr. King asked how much of the Wellhead Protect Zone was expanded.

Mr. Cote said, none.

Mr. Cote then passed out a colored coded map, noting that the green lines delineated the zones of contribution, with light green and dark green respectively denoting primary and secondary areas, and the red line being the DEP oil regulation radius.

Mr. Cote said they've left most of the Ordinance as is.

Mrs. McGraw asked for clarification - are we just cleaning up the Ordinance or putting in a better one, and are there any areas we need to focus on?

Mr. Kaiser said more detail in the application requirement section has been added, modeled after the experience with the project at Willow Springs [meaning Brookside Village]. He said the Planning Board can waive these on a case by case basis for simple projects.

Mr. Kaiser mentioned the difference in lot size requirements from the Zoning Ordinance that Mr. Smith had discussed with him. While existing lot sizes are grandfathered, new lots have to be larger to decrease density in the Wellhead Protection area.

Mrs. McGraw asked if the Water Department was happy with the revised ordinance, and Mr. Holt, Jane Woodman, and Clyde Ross agreed they were.

Discussion followed regarding agricultural animals and Mr. Jordan said that they could come and go and that might be a little bit of a concern, noting he has a few sheep temporarily on his property.

Mr. King asked what if the property is sold, regarding the use for keeping livestock.

Mr. Kaiser said commercial operations would fall under the regulations in the Zoning and Wellhead Protection Ordinances, and he added that a lot of people keep farm animals in town for their personal use and this is not considered commercial agriculture.

Mr. King asked what if someone buys Mr. Jordan's property and turns it into a commercial venture.

Mr. Kaiser said it would be reviewed by the Board under Site Review and Wellhead Protection depending on where it fell in the Land Use Table.

Dr. Eastler asked what's grandfathered, the property or the use.

Mr. Kaiser said in Mr. Jordan's case the dairy is long gone, but a current non-conforming use would lose its grandfathering if discontinued for more than a year (or two years with an extension).

Dr. Eastler used the example of Mr. Pike making compost which is a long standing agricultural use.

Mr. Kaiser said there are nutrient and manure management standards that DEP imposes on such operations, and for such uses in the Wellhead Protection area we would want to consult with the FVC.

Mr. King asked about a 4H sheep operation.

Mr. Kaiser said it's often a matter of intensity - when has something reached the point where it needs Site Review, and the Town can always bring in someone whose operation has grown into a commercial operation.

Mr. Smith said that most of his questions have been answered by looking at the map but he questioned why do we need 8 (viii) *Interest the applicant has in any property abutting the parcel to be developed* and 9 (ix) *State whether the development covers the entire or contiguous holdings of applicant* - on page 26.

Mr. Cote said he didn't know if it was new information or carried over.

Mr. Kaiser said this is a standard question, which we also have under other ordinances. This information helps the Board determine how much of the subject property will be developed and if the applicant has plans to expand in the future.

Dr. Eastler made a motion to approve the Wellhead Protection Ordinance as amended and revised over time.

Mr. Smith seconded the motion.

VOTE: 5 – Affirmative 3 – Absent
Motion carried.

Mr. Davis asked if the Board intended with this vote to forward this ordinance revision to the Board of Selectmen, and the Board members indicated that they did.

The Water Department requested that this not happen before March 5, 2013.

**4. Cory Boyker – “Just Pawn It”
Pawn Shop and Collateral Loans
Site Review Application #13-SR-02
165 Front Street – Suite #3
Map U15 – Lot 062**

Mr. Boyker was present to represent this proposal. He began by stating that besides pawning items he will also have items for sale but he wouldn't carry guns. He said that Joel Palmer would be doing the appraisals. He said that they will have a website, advertise through social media, and will also buy and sell online. Mr. Boyker said that he will submit an inventory list to Chief Peck of the Police Department every 30 days. He discussed the Maine interest rate chart with a mandatory rate of 2.5%. He said that he feels there is a market in this area as the closet pawn shop is in Norridgewock. He said he is also in the rental business and wants to know what he has to do in order to open a pawn shop.

Mr. King said that the procedure he would like to follow would be to go around the Board for discussion and questions and then open it up to the public.

Dr. Eastler said that if no one came to pawn items you said you would still have merchandise to sale.

Mr. Boyker said, yes, he would obtain merchandise through liquidators like Best Buys does, and he would sell TVs, Ipods, etc. and it would a backup to the pawn business.

Mr. King brought up the hours of operation and it was listed on the application 8:00 A.M. to 7:00 P.M. everyday.

Mr. Boyker said he was still debating whether or not to be open on Sundays.

Mr. King asked if there would be outside lighting.

Mr. Boyker said he is thinking about an illuminated sign.

Mr. King told Mr. Boyker to check with Mr. Kaiser regarding signage.

Mr. King asked about a security system.

Mr. Boyker said he checked with Radio Shack but has not decided on a system.

Mr. King asked Mr. Boyker if he planned to sell jewelry.

Mr. Boyker said, yes.

Mr. King said that there was another pawn shop nearby in Rumford.

Mr. Jordan asked if they received a chainsaw or anything with gasoline, what provisions would be made for safe storage, adding that there was a restaurant downstairs.

Mr. Boyker said that the property owner, Jon Bubier, has offered a barn for storage use.

Dr. Eastler said the ethanol in gas turns into gum even with stabilizer, and there is L.D.105 to reduce or eliminate ethanol in gas (which will also make it more expensive). This will be a problem for pawned goods with gas engines that sit around so you'll have to flush these and get rid of the bad gas.

Mrs. McGraw asked what about the square footage (SF) of the space.

Mr. Boyker said he was not sure.

Mr. King said the space is 750 SF.

Mr. Boyker said he would like to eventually move to the old Luce Studios location but he has a lease with Mr. Bubier for this site until September.

Mrs. McGraw asked about the APR and the 25% interest payback.

Mr. Boyker said the 300% per year rate divided by twelve months is 25% per month.

King said that if Mr. Boyker decided to deal with guns and ammunition in the future, he will need to come back to the Board to discuss safety issues and storage.

Mr. Boyker said that if he finds that there is a market for it, he will come back to the Board for this.

Mr. King asked Police Chief, Jack Peck, for his input.

Chief Peck said that he has no issues with Mr. Boyker, but doesn't know if this type of business is good for the downtown. He said that pawn shops draw undesirables from other towns and that there are a lot of thieves who want to pawn items for quick cash for drugs. Chief Peck said that when he monitored the "Three Stooges" pawn shop years ago, there were many problems. He said that they would sell merchandise out right and have nothing to back up the transaction. He said that some owners or managers of shops won't return stolen merchandise when discovered to the owners and then they would have to get a warrant through the District Attorney's office. He added that picture IDs should be required and merchandise be kept for 45 days.

Chief Peck said that he wouldn't like to see items like knives, brass knuckles, and numchuks on display because young kids are infatuated with these kinds of items. He added that he doesn't think the shop should be open at night.

Mr. Boyker said he was aware of everything Chief Peck mentioned. He said that he plans to photograph the items that are pawned.

Dr. Eastler said he would suggest asking for some kind of proof of ownership. He said a bill of sale would resolve that problem, but it might cost Mr. Boyker some business. He added that he likes his plan and it sounds like he wants to run a good quality shop.

Chief Peck said a lot of people don't write down their serial numbers so it's hard to track and recover stolen goods.

Mr. King asked Mr. Boyker is he ever worked in sales or a pawn shop.

Mr. Boyker said, no.

Mr. Smith said they are now coming out with a new Husky fuel-injected chainsaw installed with a tracking chip.

Mr. Boyker said that he grew up in this area and knows the good crowd from the bad crowd.

Mr. King Clayton suggested installing a surveillance camera.

Mr. Davis said he has the same concerns Chief Peck has, adding that it's a legal business and we can't prohibit it, but the Board can place restrictions such as the hours of operation, etc.

Mr. Kaiser agreed with Mr. Davis and said that we have no set criteria for this type of business but the Board can set conditions based on public safety or other concerns.

Assistant District Attorney, Andy Robinson, said that he works in the Lewiston/Auburn area where there are many established pawn shops. He said a University of Wisconsin study revealed that pawn shops are linked to increased theft and stimulate property crime, and that there are detectives whose main duties are to go through items in pawn shops looking for known stolen property. He said Lewiston and Auburn have put an ordinance into place which mandates ID for tracing as well as to provide police with sales slips. He said they can require merchandise be returned to the owner after proof is provided. Attorney Robinson said that through an ordinance you can mandate that items have to be held for a certain amount of time, 45 or 90 days, to give owners a chance to find the missing items and information to be shared with Sheriffs and State Police. He said that jewelry can be melted down and that's why you need a timeframe. Regarding the location of this proposed pawn shop, he said it would bring the criminal element into the downtown after hours when other businesses are closed. Attorney Robinson suggested that the Board hold a public hearing so other businesses in town can have a say. He added that the Town should adopt an ordinance before approving this application.

Dr. Eastler said he travels all over the country and the world and has gone into many pawnshops many times and generally likes them. He said you will find them outside of military posts as well as seedy areas where there's crime.

Dr. Eastler asked Attorney Robinson to draft a good ordinance for the Town of Farmington. He said that he takes umbrage where scare tactics are used such as linking drug crimes with a business which is basically retail. He said that it would take at least twelve months to have an ordinance in place. He added that it seems that Chief Peck has had a lot of discussion with Mr. Boyker already about this kind of business.

Mr. Davis reiterated that the Planning Board had the ability to impose conditions.

Mrs. McGraw said that it doesn't matter if she personally likes this proposal or not, and asked can we tell him what hours he can be open, etc?

Mr. Kaiser said that Mr. Boyker can either volunteer such concessions, or agree to what the Board may request as conditions. He said if he refuses, then we don't approve the application, and gave Rite Aid as an example when the Board made requests for design changes which they did voluntarily and agreeably.

Public safety and the quality of the downtown were then discussed.

Mrs. McGraw said that Mr. Boyker already has a temporary sign out and asked if there were any concerns from other businesses.

Dr. Eastler said that he believes an ordinance is the way to go, but as far as a public hearing, then it becomes a popularity contest.

Attorney Robinson said if I were a store owner I would be concerned, and as far as drafting an ordinance, I can't do that - I'm just offering advice.

Dr. Eastler said I'm just asking that you volunteer some worksmithing, since you are a resident.

Mr. King asked Chief Peck where most of the people come from who go to pawn shops.

Chief Peck said often from out of town because people don't want to be recognized.

Mr. King asked Mr. Boyker if he was willing to adjust and negotiate his hours of operation to 9:00 A.M. to 5:00 P.M.

Mr. Boyker said he would like to stay open until 6:00 P.M., but not on Sunday.

Mr. King asked about lighting.

Mr. Boyker said there would be no additional lighting.

Mr. King said he would still like to see a surveillance camera, require IDs for pawning and sales, and also a hold on pawned merchandise for 30 to 45 days.

Dr. Eastler said he still sees an opportunity for Attorney Robinson and Chief Peck to co-author an appropriate pawn shop ordinance for this rural area and he would be willing to work with them.

The Board then comprised the following list of conditions:

- Days and hours of operation – 9:00 A.M. – 6:00 P.M. Monday – Thursday
9:00 A.M. – 7:00 P.M. Friday - Saturday
Closed on Sunday
- Provide Chief Peck with an inventory list every fifteen (15) days with a detailed description of each item
- Photograph each item
- Install a security system with surveillance cameras
- Require photo IDs for pawning and sales
- Hold items for forty-five (45) days
- Every purchase by shop staff must have a receipt in order to resell

Attorney Robinson asked if the item is identified as stolen, does it have to be turned over or does he have to get search warrant.

Mr. Boyker said he will have insurance for those instances.

Mr. King made a motion to approve the application with the above bulleted conditions.

Dr. Eastler seconded the motion.

VOTE: 5 – Affirmative 3 – Absent
Motion carried.

There being no further business, the meeting adjourned at 8:05 P.M.

Minutes respectfully submitted by Jane Ford.

Planning Board

Date